

AMENDED IN ASSEMBLY APRIL 22, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 906

**Introduced by Assembly Members Nakano and Laird, Laird,
and Simitian**

February 20, 2003

An act to add Division ~~38~~ 39 (commencing with Section ~~72400~~ 72500) to the Public Resources Code, relating to vessels.

LEGISLATIVE COUNSEL'S DIGEST

AB 906, as amended, Nakano. Large Passenger vessels: ~~national marine sanctuaries~~ water quality.

Under the Porter-Cologne Water Quality Control Act, the State Water Resources Control Board is the principal state agency with primary authority over water quality matters. Under the act, the board prescribes waste discharge requirements for the discharge of waste into the waters of the state.

Existing law, which by its own terms will be repealed on July 1, 2003, requires an owner or operator of a large passenger vessel operated in the marine waters of the state to submit a report to the State Water Resources Control Board of the release of graywater or sewage that occurred during a specified time in the marine waters of the state.

Federal law ~~prohibits a state from prohibiting vessels from discharging sewage, graywater, or other specified waste, unless the state applies to, and receives approval from, the United States Environmental Protection Agency.~~ Federal law establishes a system of national marine sanctuaries.

This bill would declare that it is in the public interest to prohibit large passenger vessels from releasing waste into national marine sanctuaries in the marine waters of the state.

The bill would require the *owner or operator* of a large passenger vessel, as defined, to submit reports to the State Water Resources Control ~~board~~ *Board* concerning the release of waste, as defined, into *the marine waters of the state and* national marine sanctuaries in the marine waters of the state, quarterly, and to immediately notify the Department of Fish and Game and the ~~appropriate California regional water quality control board of those specified~~ releases. The bill would require the *owner or operator* of the vessel to sign ~~the specified~~ reports under penalty of perjury, thereby imposing a state-mandated local program, *by expanding the scope of a crime*.

~~The bill would direct the State Water Resources Control Board to apply to the Administrator of the United States Environmental Protection Agency to authorize the state to prohibit the release of both sewage and other waste by large passenger vessels in national marine sanctuaries in the marine waters of the state. The bill would prohibit those releases if the administrator approves the applications the release of graywater and hazardous waste, by large passenger vessels into the marine waters of the state or national marine sanctuaries in the marine waters of the state, and would subject a person who violates the prohibitions to a civil penalty, as specified.~~

The bill would permit the board to adopt regulations, and to board and inspect a vessel in the marine waters of the state, to carry out the bill's provisions. The bill would provide that it does not apply to vessels that operate in the marine waters of the state solely in innocent passage.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Division 38 (commencing with Section 72400)~~
- 2 ~~is added to the Public Resources Code, to read:~~
- 3

~~DIVISION 38.— LARGE PASSENGER VESSELS
OPERATING IN NATIONAL MARINE SANCTUARIES~~

~~72400.—~~

SECTION 1. Division 39 (commencing with Section 72500) is added to the Public Resources Code, to read:

*DIVISION 39. PROHIBITED RELEASE OF WASTES FROM
LARGE PASSENGER VESSELS*

CHAPTER 1. FINDINGS AND DECLARATIONS

72500. The Legislature finds and declares all of the following:

(a) Large passenger vessels produce considerable amounts of waste, including graywater, sewage, and other forms of solid and liquid waste.

(b) California is home to four of the 13 National Marine Sanctuaries. These areas support some of the world's most diverse marine ecosystems and are home to numerous mammals, seabirds, fish, invertebrates, and plants.

(c) The release of waste from large passenger vessels results in substantial damage to these valuable resources.

(d) In order to protect public health and the environment, it is in the public interest to prohibit large passenger vessels from releasing waste into marine sanctuaries.

~~72402.— For purposes of this division, the following definitions apply:~~

CHAPTER 2. DEFINITIONS

72505. *Unless the context otherwise requires, the following definitions govern the construction of this division:*

(a) "Board" means the State Water Resources Control Board.

(b) "Graywater" means drainage from dishwasher, shower, laundry, bath, and wash basin drains, but does not include drainage from toilets, urinals, hospitals, and cargo spaces.

(c) "Hazardous waste" has the meaning set forth in Section 25117 of the Health and Safety Code. *Hazardous waste also*

1 *includes photography lab chemicals, dry cleaning chemicals, and*
2 *medical waste, but does not include sewage.*

3 (d) “Large passenger vessel” or “vessel” means a vessel of
4 300 gross registered tons or greater that is engaged in the carrying
5 of passengers for hire, excluding all of the following vessels:

6 (1) Vessels without berths or overnight accommodations for
7 passengers.

8 (2) Noncommercial vessels, warships, vessels operated by
9 nonprofit entities as determined by the Internal Revenue Service,
10 and vessels operated by the state, the United States, or a foreign
11 government.

12 (e) “Marine waters of the state” means “coastal waters” as
13 defined in Section 13181 of the Water Code.

14 (f) “Marine sanctuary” means *marine waters of the state* in the
15 Channel Islands National Marine Sanctuary, Cordell Bank
16 National Marine Sanctuary, Gulf of the Farallones National
17 Marine Sanctuary, ~~and~~ or Monterey Bay National Marine
18 Sanctuary.

19 (g) “Medical waste” means medical waste subject to
20 regulation pursuant to Part 14 (commencing with Section 117600)
21 of Division 104 of the Health and Safety Code.

22 ~~(h) “Oil” has the meaning set forth in Section 8750.~~

23 (h) “Offloading” means the removal of waste material onto or
24 into a controlled storage, processing, or disposal facility or
25 treatment works.

26 (i) “Operator” has the meaning set forth in Section 651 of the
27 Harbors and Navigation Code.

28 (j) “Owner” *has the meaning set forth in Section 651 of the*
29 *Harbors and Navigation Code.*

30 (k) “Release” means discharging or disposing of wastes into
31 the environment.

32 ~~(k) “Sewage” has the meaning set forth in Section 775.5 of the~~
33 ~~Harbors and Navigation Code, and also includes material that has~~
34 ~~been collected or treated through a marine sanitation device as that~~
35 ~~term is used in paragraph (5) of subsection (a) of Section 1322 of~~
36 ~~Title 33 of the United States Code.~~

37 ~~(l) “Solid waste” has the meaning set forth in Section 40191.~~

38 ~~(m)–~~

(l) “Waste” means graywater, sewage, solid waste other than or hazardous waste, including incinerator residue and medical waste, hazardous waste, or oily waste.

72404.—

CHAPTER 3. REPORTS

72510. (a) If a large passenger vessel releases waste in a marine sanctuary in the marine waters of the state, the operator marine sanctuary, the owner or operator shall immediately notify the Department of Fish and Game and the appropriate California regional water quality control board of the release. The owner or operator shall include the information listed in subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (b) in that notification.

(b) (1) The owner or operator of a large passenger vessel shall maintain reports of each release of waste within a marine sanctuary in the marine waters of the state for three years, including a description of each of the following:

(A) Type of waste was released.

(B) Quantity of waste released.

(C) When the waste was released.

(D) Where the waste was released.

(E) Any attempt to mitigate the impacts of the release.

(2) The owner or operator shall sign the reports under penalty of perjury.

(3) The owner or operator shall submit the reports to the board quarterly.

72408.— (a) The Legislature finds and declares that the protection and enhancement of the quality of marine sanctuaries in the marine waters of the state requires that the release of untreated and treated sewage from large passenger vessels into marine sanctuaries in the marine waters of the state should be prohibited.

(b) The board shall apply to the Administrator of the United States Environmental Protection Agency, pursuant to subsection (f) of Section 1322 of Title 33 of the United States Code and Section 140.4 of Title 40 of the Code of Federal Regulations, to authorize the state to prohibit the release of untreated and treated

1 ~~sewage from large passenger vessels into marine sanctuaries in the~~
2 ~~marine waters of the state.~~

3 ~~(e) The board shall conduct the research necessary to make this~~
4 ~~application.~~

5 ~~72409. If the Administrator of the United States~~
6 ~~Environmental Protection Agency approves an application made~~
7 ~~pursuant to subdivision (b) of Section 72408, an operator of a large~~
8 ~~passenger vessel may not release, or permit anyone to release~~
9 ~~sewage, untreated or treated, from the vessel into marine~~
10 ~~sanctuaries in the marine waters of the state.~~

11 ~~72410.—~~

12 *72512. (a) The owner or operator of a large passenger vessel*
13 *shall maintain reports of each offloading or release of waste within*
14 *the marine waters of the state, and include in the reports*
15 *information described in subparagraphs (A) to (E), inclusive, of*
16 *paragraph (1) of subdivision (b) of Section 72510.*

17 *(b) The owner or operator shall submit the reports to the board*
18 *quarterly.*

19
20 CHAPTER 4. PROHIBITED RELEASES

21
22 *72515. (a) The Legislature finds and declares that the*
23 *protection and enhancement of the quality of the marine waters of*
24 *the state requires that the release of graywater from large*
25 *passenger vessels into the marine waters of the state should be*
26 *prohibited.*

27 *(b) An owner or operator of a large passenger vessel may not*
28 *release, or permit anyone to release, graywater from the vessel into*
29 *the marine waters of the state.*

30 *72519. (a) The Legislature finds and declares that the*
31 *protection and enhancement of the quality of the marine waters of*
32 *the state requires that the release of hazardous waste from large*
33 *passenger vessels into the marine waters of the state should be*
34 *prohibited.*

35 *(b) An owner or operator of a large passenger vessel may not*
36 *release, or permit anyone to release, a hazardous waste from the*
37 *vessel into the marine waters of the state.*

38 *72521. (a) The Legislature finds and declares that the*
39 *protection and enhancement of the quality of marine sanctuaries*

1 *requires that the release of hazardous waste from large passenger*
2 *vessels into marine sanctuaries should be prohibited.*

3 *(b) An owner or operator of a large passenger vessel may not*
4 *release, or permit anyone to release, a hazardous waste from the*
5 *vessel into a marine sanctuary.*

6 72523. (a) The Legislature finds and declares that the
7 protection and enhancement of the quality of marine sanctuaries
8 ~~in the marine waters of the state requires that the release of waste,~~
9 ~~excluding sewage, requires that the release of graywater from~~
10 ~~large passenger vessels into marine sanctuaries in the marine~~
11 ~~waters of the state should be prohibited.~~

12 ~~(b) The board shall apply to the Administrator of the United~~
13 ~~States Environmental Protection Agency, pursuant to paragraph~~
14 ~~(7) of subsection (n) of Section 1322 of Title 33 of the United~~
15 ~~States Code and Section 1700.9 of Title 40 of the Code of Federal~~
16 ~~Regulations, to authorize the state to prohibit the release of waste,~~
17 ~~excluding sewage, into marine sanctuaries in the marine waters of~~
18 ~~the state.~~

19 ~~(c) The board shall conduct the research necessary to make this~~
20 ~~application.~~

21 72411. ~~If the Administrator of the United States~~
22 ~~Environmental Protection Agency approves an application made~~
23 ~~pursuant to subdivision (b) of Section 72410, an operator of a large~~
24 ~~passenger vessel may not release, or permit anyone to release~~
25 ~~waste, excluding sewage, from the vessel into marine sanctuaries~~
26 ~~in the marine waters of the state.~~

27 72412. —

28 *(b) An owner or operator of a large passenger vessel may not*
29 *release, or permit anyone to release, graywater from the vessel into*
30 *a marine sanctuary.*

31
32 CHAPTER 5. PENALTIES
33

34 72530. (a) A person who violates Section ~~72409 or 72411~~
35 ~~72515, 72519, 72521 or 72523~~, shall be subject to a civil penalty
36 of not more than twenty-five thousand dollars (\$25,000) for each
37 violation.

38 (b) The civil penalty imposed for each separate violation
39 pursuant to this section is separate *from*, and in addition to, any

1 other civil penalty imposed for a separate violation pursuant to this
2 section or any other provision of law.

3 (c) In determining the amount of a civil penalty imposed
4 pursuant to this section, the court shall take into consideration all
5 relevant circumstances, including, but not limited to, the nature,
6 circumstance, extent, and gravity of the violation. In making this
7 determination, the court shall consider the degree of toxicity and
8 volume of the ~~discharge~~ release, the extent of harm caused by the
9 violation, whether the effects of the violation may be reversed or
10 mitigated, and with respect to the defendant, the ability to pay, the
11 effect of a civil penalty on the ability to continue in business, all
12 voluntary cleanup efforts undertaken, the prior history of
13 violations, the gravity of the behavior, the economic benefit, if any,
14 resulting from the violation, and all other matters the court
15 determines justice may require.

16 (d) A civil action brought under this section ~~shall~~ *may only* be
17 brought by the Attorney General upon complaint by the
18 Department of Fish and Game or the appropriate California
19 regional water quality control board, or by the district attorney or
20 city attorney. *If a district attorney or city attorney brings an action*
21 *under this section, the action shall be* in the name of the people of
22 the State of California. An action relating to the same violation
23 may be joined or consolidated.

24
25 CHAPTER 7. MISCELLANEOUS
26

27 72540. (a) *This division does not apply to a large passenger*
28 *vessel that operates in the marine waters of the state solely in*
29 *innocent passage.*

30 (b) *For purposes of this section, a vessel is engaged in innocent*
31 *passage if its operation in state waters would constitute innocent*
32 *passage under either the Convention or the Territorial Sea and*
33 *Contiguous Zone, dated April 29, 1958, or the United Nations*
34 *Convention on the Law of the Sea, dated December 10, 1982.*

35 72542. *The board may adopt regulations to carry out this*
36 *division.*

37 72544. *The board may board and inspect a vessel in the*
38 *marine waters of the state for the purposes of carrying out this*
39 *division.*

1 SEC. 2. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the penalty
6 for a crime or infraction, within the meaning of Section 17556 of
7 the Government Code, or changes the definition of a crime within
8 the meaning of Section 6 of Article XIII B of the California
9 Constitution.

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